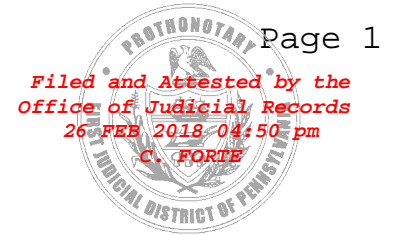


Licenses & Inspections Review Board In Re: 4087 Richmond St.
September 29, 2017

CITY OF PHILADELPHIA
LICENSES and INSPECTIONS REVIEW BOARD
PUBLIC HEARING
TUESDAY, AUGUST 29, 2017
MINUTES OF FORMAL HEARING



LOCATION: 1515 Arch Street, 18th
Floor, Philadelphia, Pennsylvania
REPORTED BY: Kathryn Doyle
COURT REPORTER

PROPERTY: 4087 Richmond Street
Philadelphia, Pennsylvania
CALENDAR NO:30394

HELD BEFORE:

RACHEL GALLEGOS, CHAIRPERSON
DENNIS LEE, BOARD MEMBER
RONALD DONATUCCI, JR., BOARD MEMBER
STEPHEN PETTIT, BOARD MEMBER

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* * * * *

Whereupon, all testifiers, having been
duly sworn, according to law, testified as follows:

* * * * *

THE CLERK: Case No. 13 Appeal No. 30394,
Robert Holton.

MR. SOPIN: Good afternoon. Craig Sopin,
counsel for the petitioner.

MS. GALLEGOS: We'll proceed with No. 13.

MR. SOPIN: Is the issue of the number of
board members resolved?

MS. GALLEGOS: Yes. We are okay to move
now. We thought someone else was coming, but
not yet. We have authority to move forward. I
double checked. Thank you.

MR. SOPIN: Okay.

MS. GALLEGOS: Counsel, if you could
introduce yourselves for the record, then we'll
start with the appellant.

MR. SOPIN: I'm Craig Sopin, counsel for
the appellant, Robert Holton. Robert Holton is
present.

MR. JOHNSON: Christopher Johnson for the
City of Philadelphia.

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1 MS. GALLEGOS: Go ahead, Mr. Sopin.

2 MR. SOPIN: Well, we have a certification
3 of violations here for the address of 4087
4 Richmond Street, which the City indicates is
5 also known at 3950 Delaware Avenue. Those
6 violations either did not exist at the time,
7 and certainly do not exist now.

8 They refer to notices of violation dated
9 March 2nd, 2017. My client can testify he did
10 not receive any notices of violation dated
11 March 2nd, 2017. In fact, that's the day of
12 the inspection that occurred.

13 In order to file and perfect this appeal,
14 I had to go down to the basement, and ask them
15 to generate notices that say March 2nd, because
16 the appeal wouldn't be docketed without it.
17 Those notices, they are attached to this.

18 They all gave Mr. Holton 35 days to cure.
19 Some of those did not need curing. They were
20 already resolved before the case started.

21 So with that, there really is no basis for
22 any of these violation notices that were
23 actually not issued, but were obtained for the
24 purpose of this appeal.

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1 MS. GALLEGOS: Okay. Then I'm going to
2 ask the City to go ahead and put on your case.
3 If you want to make a brief opening, that's
4 fine with me.

5 MR. JOHNSON: Just this brief opening,
6 this case refers back to that March 2nd, 2017,
7 violation notices.

8 Basically, there's a business being
9 conducted at the premises known as 4087
10 Richmond Street, which is actually a part of
11 the Frankford Creek Right of Way, that is
12 actually city property.

13 Information had been discovered by the
14 City that Mr. Holton and another individual,
15 Kevin Creedon, were operating this business.
16 And these violations were written up.

17 It's not zoned for the business that's
18 occurring at that premises, or any of the
19 activities that are being conducted on that
20 premises.

21 For that reason, we believe that the
22 appeal should be -- the notice should be
23 affirmed.

24 MS. GALLEGOS: What were the violations?

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1 MR. JOHNSON: There was failure to have
2 zoning for auto wrecking. There's illicit
3 violations on the notice that they had violated
4 the fire code by not having portable fire
5 extinguishers, faulty wiring that is connected
6 to a trailer on the premises.

7 They have not posted the no smoking signs,
8 that was listed on the violation notice, also.
9 Failure to keep Material Safety Data Sheets,
10 related to the storage or disposal of hazardous
11 waste materials, connected with that auto
12 dismantling business were not on the premises,
13 as required by Philadelphia Code.

14 And I think the City is willing to
15 acknowledge that some of these violations may
16 have been complied between the time of the
17 notice and now. However, the major issues --
18 lack of zoning to conduct that business at that
19 premises, no permits to run the business or
20 licenses to run the business. Those have not
21 been complied.

22 MS. GALLEGOS: All right. Can we be
23 specific about -- are there violation numbers
24 that need to be put on the record that are at

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1 issue today? That would be helpful, so we know
2 exactly what we're talking about.

3 MR. JOHNSON: So first, zoning. Second
4 would be, there's no active Hazardous Material
5 License. The extension cords are in violation
6 of Fire Code, that would be the faulty wiring.
7 And the MSDS for the hazardous waste fluids.
8 And the improper markings for the containers
9 for the hazardous waste.

10 MS. GALLEGOS: Okay. And do you have
11 anyone to testify?

12 MR. JOHNSON: Yes, the City is going to
13 call Silvio Di Guglielmo.

14 MS. GALLEGOS: Please come forward.

15 Mr. Holton, if you'd like to sit in the
16 front row, you're welcomed to. Whatever's
17 easier for you.

18 MR. JOHNSON: Could you please state your
19 name for the record?

20 MR. DI GUGLIELMO: Silvio Di Guglielmo.

21 MR. JOHNSON: Can you please spell that?

22 MR. DI GUGLIELMO: S-I-L-V-I-O, last name
23 is Di Guglielmo, D-I-G-U-G-L-I-E-L-M-O.

24 MR. JOHNSON: And where are you employed,

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1 sir?

2 MR. DI GUGLIELMO: The City of
3 Philadelphia, Licenses and Inspections.

4 MR. JOHNSON: How long have you been an
5 inspector?

6 MR. DI GUGLIELMO: Over five years.

7 MR. JOHNSON: Were you involved in
8 inspecting the premises known as 4087 Richmond
9 Street?

10 MR. DI GUGLIELMO: Yes.

11 MR. JOHNSON: I'm showing you a document
12 that's marked Exhibit 1. Can you confirm,
13 looking at the map, that you had inspected the
14 premises at 4087 Richmond Street?

15 MR. DI GUGLIELMO: I have, yes.

16 MR. JOHNSON: Is that marked in red on
17 this document, which is a map -- is it marked
18 in red and labeled 4087 Richmond Street?

19 MR. DI GUGLIELMO: Yes, it is.

20 MR. JOHNSON: I'm going to ask that
21 Exhibit 1 be made part of the record so that --

22 MS. GALLEGOS: Make sure that Counsel has
23 seen it.

24 MR. SOPIN: I've seen it before.

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1 MR. JOHNSON: Here's a copy.

2 MS. GALLEGOS: Thank you.

3 MR. JOHNSON: Could you tell us how you
4 became involved in inspecting the premises?

5 MR. DI GUGLIELMO: Scrap Yard Task Force.

6 MR. JOHNSON: And when did you have the
7 opportunity to see the premises at 4087
8 Richmond?

9 MR. DI GUGLIELMO: March 2nd, 2017.

10 MR. JOHNSON: What did you observe there?

11 MR. DI GUGLIELMO: A business called
12 K-Squad. It's a scrap yard that deals mostly
13 with automobiles, dismantling automobiles, or
14 selling automobiles.

15 MR. JOHNSON: And did you see at that time
16 any violations of Philadelphia Code?

17 MR. DI GUGLIELMO: Yes.

18 MR. JOHNSON: Can you tell us what those
19 were?

20 MR. DI GUGLIELMO: Yes. There were
21 several violations, most important was the
22 zoning. There's no zoning for a scrap yard at
23 that address, no licenses, no auto repair
24 licenses, no hazmat licenses. I have a list

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1 here.

2 MSDS sheets were not present at the time
3 of the inspection. Certain cartons or
4 containers were not properly labeled.

5 MR. JOHNSON: What kind of containers?

6 MR. DI GUGLIELMO: Could be steel drums,
7 or it could be plastic totes. Everything has
8 to be identified or labeled.

9 MR. JOHNSON: Do you know -- why is that
10 required?

11 MR. DI GUGLIELMO: It's for the fire
12 department, just in case they need to show up
13 in the middle of the night, if there's a fire
14 or issue. They need to know where all the
15 hazmats are located, and what's inside the
16 containers.

17 MR. JOHNSON: What other violations?

18 MR. DI GUGLIELMO: Mostly licenses. Scale
19 license -- there's a scale on site. A scale --
20 you must obtain a license for that. Auto
21 wrecking -- most importantly auto wrecking
22 license, that has to be obtained, also.

23 MR. JOHNSON: Did you check to see if
24 there was proper zoning?

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1 MR. DI GUGLIELMO: Yes.

2 MR. JOHNSON: Was there?

3 MR. DI GUGLIELMO: No, there was not.

4 MR. JOHNSON: After that initial
5 inspection, were you involved in any other
6 further inspection?

7 MR. DI GUGLIELMO: Yes.

8 MR. JOHNSON: Tell us when that was.

9 MR. DI GUGLIELMO: The second reinspection
10 was -- March 2nd was the original inspection.
11 Then there was a notice of violation sent on
12 March 8th.

13 March 9th, the supervisor, another
14 inspector, gave an Intent to Cease. They
15 needed to obtain the licenses.

16 MR. LEE: Can you repeat that part?

17 MR. DI GUGLIELMO: Sure. March 9th, 2017,
18 Supervisor James Titus and another inspector
19 delivered the Intent to Cease letter.

20 On March 10th, a Notice of Violation was
21 sent out.

22 The final notice was April 3rd, 2017.
23 April 12th was the -- myself and Supervisor
24 Titus were there to conduct a cease on the

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1 property for not having the proper zoning.

2 MR. JOHNSON: Now, when you were at the
3 premises, who did you see -- strike that.

4 When you were at the premises, did you
5 ever come into contact with Robert Holton?

6 MR. DI GUGLIELMO: Yes.

7 MR. JOHNSON: And did you have a chance to
8 hear him identifying himself as the owner of
9 the premises?

10 MR. DI GUGLIELMO: Yes.

11 MR. JOHNSON: And did he identify himself
12 as the owner of the business operating then?

13 MR. DI GUGLIELMO: No.

14 MR. JOHNSON: So what did he say that the
15 arrangement was?

16 MR. DI GUGLIELMO: He's just the owner of
17 the property and the tenant is K-Squad.

18 MR. JOHNSON: And was the tenant also
19 there?

20 MR. DI GUGLIELMO: Yes.

21 MR. JOHNSON: So they were both there when
22 you delivered the Cease Order?

23 MR. DI GUGLIELMO: Yes. Both there.

24 MR. JOHNSON: Did they say they were going

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1 to cease operations?

2 MR. DI GUGLIELMO: Police were called. I
3 think they wanted to do a temporary restraining
4 order on the property, but it was ceased
5 anyway.

6 MR. JOHNSON: Now, before we go any
7 further, did you bring any pictures that you
8 took during your inspections?

9 MR. DI GUGLIELMO: Yes, I have several.

10 MS. GALLEGOS: Please make sure you share
11 with Counsel before you pass them up. That's
12 all we ask.

13 MR. JOHNSON: I'm going to show you a
14 series of photographs.

15 MR. SOPIN: Are these mine?

16 MR. JOHNSON: No. I have Exhibits 2 and 3
17 marked.

18 What are these pictures of?

19 MR. DI GUGLIELMO: One photo is a ceased
20 poster, which is posted after we cease a
21 property.

22 One showing the address of the property
23 4087.

24 MR. JOHNSON: And did you affix that at

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1 that property?

2 MR. DI GUGLIELMO: Yes.

3 MR. JOHNSON: Where was it affixed?

4 MR. DI GUGLIELMO: The main entrance on
5 Richmond Street.

6 MR. JOHNSON: I'm going to ask that
7 Exhibits 2 and 3 be marked and made part of the
8 record.

9 MR. SOPIN: No objection.

10 MR. JOHNSON: Silvio, I'm showing you
11 what's marked as Exhibit 4. Can you tell us
12 what this picture shows?

13 MR. DI GUGLIELMO: It's a shop area. They
14 work on parts or remove parts there.

15 MR. JOHNSON: Is there any violation you
16 can see by this photograph?

17 MR. DI GUGLIELMO: There's temporary
18 wiring there for lighting.

19 MR. JOHNSON: Is that in compliance with
20 the Philadelphia Code?

21 MR. DI GUGLIELMO: No.

22 MR. JOHNSON: Why not?

23 MR. DI GUGLIELMO: You need permanent
24 wiring.

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1 MR. JOHNSON: I'm going to show you what's
2 marked Exhibit 5 at this time. What can we see
3 in this picture?

4 MR. DI GUGLIELMO: There's a trailer --
5 there's several trailers on the site. There's
6 no zoning for trailers on that property.

7 MR. JOHNSON: And what's marked Exhibit 7,
8 what's this photograph?

9 MR. DI GUGLIELMO: Vehicles on the
10 property, scrap vehicles.

11 MR. JOHNSON: And does that document any
12 ongoing violation?

13 MR. DI GUGLIELMO: It's not zoned for
14 scrap cars.

15 MR. LEE: Just a quick question. Do you
16 need a permit for a trailer -- to get a
17 trailer?

18 MR. DI GUGLIELMO: Yes.

19 MR. LEE: So were there any permits for
20 the trailer, that you know of?

21 MR. DI GUGLIELMO: Not for 4087.

22 MR. LEE: Speak to the permit piece, in
23 terms of what you just said.

24 MR. DI GUGLIELMO: You do need a permit to

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1 obtain a trailer on site.

2 MR. LEE: Did you need any other permits
3 for --

4 MR. DI GUGLIELMO: Yes. You need a hazmat
5 license. You do need that.

6 MR. LEE: I know you mentioned the scrap
7 metal part.

8 MR. DI GUGLIELMO: Scrap yard.

9 MR. LEE: Do you need a permit for that?

10 MR. DI GUGLIELMO: Yes.

11 MR. LEE: Just want to hear more about the
12 permits and licenses that you need, along with
13 your zoning part. But the licenses and the
14 permit piece is important.

15 MR. JOHNSON: I'm showing you what's
16 marked as Exhibit 8. How many photographs are
17 on this page?

18 MR. DI GUGLIELMO: Four.

19 MR. JOHNSON: What are they depicting?

20 MR. DI GUGLIELMO: Containers, steel
21 drums, or totes, plastic totes.

22 MR. JOHNSON: Were these present on the
23 premises when you saw the premises?

24 MR. DI GUGLIELMO: Yes.

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1 MR. JOHNSON: Are they depicting any
2 violations of the City Code?

3 MR. DI GUGLIELMO: They're defective
4 containers and unlabeled.

5 MR. JOHNSON: Could anyone know what was
6 in these containers?

7 MR. DI GUGLIELMO: It could be anything.

8 MR. JOHNSON: I'm going to ask that these
9 pictures be made part of the record, Exhibits
10 4, 5, 6, 7, 8.

11 MR. SOPIN: No objection.

12 MS. GALLEGOS: Thank you.

13 MR. JOHNSON: Silvio, when you looked at
14 those pictures, did they provide an accurate
15 representation of violations that you saw when
16 you visited the premises?

17 MR. DI GUGLIELMO: Yes.

18 MR. JOHNSON: Have you had a chance to go
19 back to the premises since then?

20 MR. DI GUGLIELMO: I did.

21 MR. JOHNSON: Is the business still
22 occurring at the premises?

23 MR. DI GUGLIELMO: Yes.

24 MR. JOHNSON: You had testified earlier

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1 about the statement by Mr. Holton, that he was
2 going to try to get a restraining order against
3 enforcement of the Cease Order. Were you
4 involved with a hearing related to that?

5 MR. DI GUGLIELMO: I was, yes.

6 MR. JOHNSON: Was that in the Court of
7 Common Pleas?

8 MR. DI GUGLIELMO: Yes.

9 MR. JOHNSON: Do you recall what the
10 outcome of that hearing was?

11 MR. SOPIN: Objection. It's not relevant
12 to whether violations have occurred.

13 MS. GALLEGOS: You can answer the
14 question. But it's noted for the record.

15 MR. DI GUGLIELMO: It was denied.

16 MR. JOHNSON: I have nothing further.

17 MS. GALLEGOS: Mr. Sopin, you can
18 cross-examine.

19 MR. SOPIN: Thank you. Can I call you
20 Silvio?

21 MR. DI GUGLIELMO: Sure.

22 MR. SOPIN: I don't think I can pronounce
23 your last name.

24 You were originally at the property in the

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1 recent set of events, on March 2nd, 2017,
2 right?

3 MR. DI GUGLIELMO: Yes.

4 MR. SOPIN: You say that as a result of
5 violations that you found on March 2nd, 2017,
6 on March 9th, 2017, your department issued
7 violation notices, correct?

8 MR. DI GUGLIELMO: Yes.

9 MR. SOPIN: I'm going to show you what I
10 marked as A-1, for Appellant 1, do you
11 recognize that?

12 MR. DI GUGLIELMO: Yes, it's the cease
13 letter.

14 MR. SOPIN: That's the Notice of Intent to
15 Cease Operations and the order to cease
16 operations, right?

17 MR. DI GUGLIELMO: Right.

18 MR. SOPIN: That's April 12th, I think it
19 says.

20 MR. DI GUGLIELMO: That's the day of the
21 cease.

22 MR. SOPIN: If you look at upper right, it
23 tells you that this notice of Intent to Cease
24 Operations is predicated upon notices that were

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1 issued on March 2nd, 2017; isn't that right?

2 MR. DI GUGLIELMO: That's the date of
3 inspection.

4 MR. SOPIN: I'm asking what that says,
5 though. Doesn't it say it's predicated upon
6 notices that were sent out to Mr. Holton on
7 March 2nd, 2017?

8 No. You can't ask your lawyer for the
9 answer.

10 MR. DI GUGLIELMO: It's just the date of
11 the inspection, the original notice --

12 MR. SOPIN: I know what the date is. I'm
13 asking you what it says.

14 MR. DI GUGLIELMO: The date of the
15 original notice, March 2nd.

16 MR. SOPIN: It says they're the March 2nd
17 notices, correct?

18 MR. DI GUGLIELMO: Correct.

19 MR. SOPIN: In fact, there was no March
20 2nd notices in this case, correct?

21 MR. DI GUGLIELMO: That's the date of the
22 inspection.

23 MR. SOPIN: I'm asking for a yes or no.
24 Were there notices issued on March 2nd in this

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1 case that this is based on?

2 MR. JOHNSON: I'm going to object. It's
3 been asked and answered.

4 MR. LEE: Yeah. I think he answered the
5 question.

6 MR. SOPIN: When you said that you came
7 back after March 2nd 2017, you had answered
8 that somebody else had come back originally.
9 Who was that?

10 MR. DI GUGLIELMO: The Intent to Cease.

11 MR. SOPIN: You didn't come back on your
12 own, right?

13 MR. DI GUGLIELMO: No. The Intent to
14 Cease was delivered by someone else. The
15 letter was showing the date of the cease will
16 take place.

17 MR. SOPIN: You came back to actually post
18 the cease order; is that right?

19 MR. DI GUGLIELMO: I was there on April
20 12th, that's the day of the cease. My
21 supervisor was there, also, and the police.

22 MR. SOPIN: That was for the purpose of
23 delivering or posting that cease order?

24 MR. DI GUGLIELMO: Correct.

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1 MR. SOPIN: I'm going to show you what has
2 been marked -- or what I'm marking as A-2. Can
3 you identify that?

4 MR. DI GUGLIELMO: It's a violation
5 notice.

6 MR. SOPIN: What's the date marked on
7 there?

8 MR. DI GUGLIELMO: This one?

9 MR. SOPIN: Yeah. The date of the notice.
10 What is it?

11 MR. DI GUGLIELMO: March 2nd.

12 MR. SOPIN: It's actually the date of the
13 inspection, right?

14 MR. DI GUGLIELMO: Correct.

15 MR. SOPIN: What's that notice for?

16 MR. DI GUGLIELMO: 4087 Richmond Street.

17 MR. SOPIN: I mean, what's the nature of
18 the notice? What is it saying that was
19 violated?

20 MR. DI GUGLIELMO: There's several
21 violations.

22 MR. SOPIN: Several violations that you
23 cited Mr. Holton for, correct?

24 MR. DI GUGLIELMO: Right.

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1 MR. SOPIN: And it says that there's 35
2 days to correct the violations, correct?

3 MR. DI GUGLIELMO: Yes.

4 MR. SOPIN: If I were to show you the
5 notice for each and every one of the violations
6 you cited them for -- I can do it, but if I
7 were to show it to you, you would agree that
8 all of them say that he had 35 days to correct
9 any violations; isn't that right?

10 MR. DI GUGLIELMO: He's got 35 days to
11 correct, correct.

12 MR. SOPIN: 35 days from the notice that
13 wasn't issued on March 2nd, right?

14 MR. DI GUGLIELMO: I have the NOVs.

15 MR. SOPIN: Did you go back within the 35
16 day period to determine whether any of the
17 violations that you said you found were
18 corrected?

19 MR. DI GUGLIELMO: 35 days, yes.

20 MR. SOPIN: When was that?

21 MR. DI GUGLIELMO: I don't have my file
22 with me.

23 MR. SOPIN: Let me make it easy for you.
24 You didn't do it, did you?

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1 MR. DI GUGLIELMO: I did do my
2 reinspection.

3 MR. SOPIN: Well, if you did the
4 reinspection -- I'm going to show you what I'm
5 marking A-3. You would have seen that within
6 the 35 days, there was a hazardous materials
7 license issued, right? Isn't that what A-3 is?

8 MR. DI GUGLIELMO: It's the wrong address.

9 MR. SOPIN: What's the address?

10 MR. DI GUGLIELMO: 3950 Delaware Avenue.

11 MR. SOPIN: Let's back up then. I'll show
12 you what I'm marking as A-4. I'll take A-3
13 back for a second. Can you identify A-4?

14 MR. DI GUGLIELMO: It's the letter. I
15 know what it is.

16 MR. SOPIN: That's the notice that's dated
17 March 9th that you testified to earlier; isn't
18 it? That's the real notice that Mr. Holton
19 would have received, correct?

20 MR. DI GUGLIELMO: No. There was an
21 additional letter. This is the attached
22 letter, which the attorneys added.

23 MR. SOPIN: The attorneys added? Isn't
24 that addressed to Mr. Holton?

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1 MR. DI GUGLIELMO: This also went out with
2 the NOV. This was hand delivered.

3 MR. SOPIN: Is it addressed to Mr. Holton?

4 MR. DI GUGLIELMO: Yes, it is.

5 MR. SOPIN: Is it dated March 9th, 2017?

6 MR. DI GUGLIELMO: Yes, it is.

7 MR. SOPIN: Does it say that the address
8 4087 is also known as 3950? Does it say it?

9 MR. DI GUGLIELMO: It says subject
10 premises Frankford Creek Right of Way.

11 MR. SOPIN: Above that. You know I'm
12 asking you.

13 MR. DI GUGLIELMO: 4087 Richmond Street
14 AKA 3950 Delaware Avenue.

15 MR. SOPIN: Okay. I'm going to show you
16 now A-3 again, that you said is the wrong
17 address. That says 4087 Richmond Street,
18 right?

19 MR. DI GUGLIELMO: It says 4085 Richmond
20 Street, that's the wrong address.

21 MR. SOPIN: 4085 Richmond Street is not a
22 place that you visited?

23 MR. DI GUGLIELMO: 4087.

24 MR. SOPIN: You didn't visit 4085 Richmond

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1 Street? Aren't they contiguous?

2 MR. DI GUGLIELMO: 4087 is the property
3 address. 4085 is the other property.

4 MR. SOPIN: Is it not 4085 to 4087, is the
5 correct address?

6 MR. DI GUGLIELMO: The same day 4085
7 Richmond Street was also inspected. It was
8 with the Scrap Yard Task Force. There were
9 several inspections that day.

10 MR. SOPIN: I'm trying to make it easier.
11 I'm going to show you what's marked as A-5.
12 It's another violation notice, right?

13 MR. DI GUGLIELMO: You're confusing 4085
14 with 4087.

15 MR. SOPIN: I'm asking you what the paper
16 from the City says.

17 MR. DI GUGLIELMO: There were two
18 inspections on that day, 4085 and 4087.

19 MR. SOPIN: What are we talking about,
20 4087?

21 MR. DI GUGLIELMO: Yes, we are.

22 MR. SOPIN: Okay. Let me show you A-4
23 again. Show me where it says there's no zoning
24 on the 4087 address.

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1 MR. DI GUGLIELMO: Where's the second part
2 of the document?

3 MR. SOPIN: Turn to the second page, it's
4 a two page letter. Turn to the second page.

5 MR. DI GUGLIELMO: There was three pages
6 of the document. You're missing --

7 MR. SOPIN: Sir, here's page one and
8 here's page two.

9 MR. DI GUGLIELMO: This went out with the
10 NOVs.

11 MR. SOPIN: You show me the letter that
12 was sent to 4087 that says there's no zoning on
13 March 9th, the day you say the notice went out.

14 MR. DI GUGLIELMO: You're missing a
15 document.

16 MR. SOPIN: We have a complete document
17 here saying what the violations are at 4087,
18 don't you see two pages?

19 And then it says sincerely James Titus on
20 that? And it says page two and this says page
21 one. And it's signed or at least has a
22 signature line for somebody.

23 MS. GALLEGOS: Can you repeat the question
24 again?

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1 MR. SOPIN: Yes. He said I'm missing a
2 document. I'm showing him --

3 MR. DI GUGLIELMO: This went out with the
4 NOV also.

5 MR. SOPIN: I'm asking you if this is a
6 two page letter signed or has a signature line
7 for a James Titus on page two.

8 MR. DI GUGLIELMO: It does, but there's
9 also a third page to this.

10 MR. SOPIN: You said that there should be
11 a page three -- that's marked page two. There
12 should be page three?

13 MR. DI GUGLIELMO: There was an additional
14 letter, which was sent out.

15 MS. GALLEGOS: Okay. If we can find that,
16 we'll hand it up. If not, what's the next
17 question?

18 MR. SOPIN: Let me show you a document
19 marked A-5. Can you identify that?

20 MR. DI GUGLIELMO: It's from the state,
21 not the City of Philadelphia.

22 MR. SOPIN: Is it a junkyard license?

23 MR. DI GUGLIELMO: Not from the City of
24 Philadelphia, it's not.

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1 MR. SOPIN: Is it a junkyard license?

2 MR. DI GUGLIELMO: Not from the City of
3 Philadelphia.

4 MS. GALLEGOS: Please just answer the
5 question, sir.

6 MR. DI GUGLIELMO: It's from the State of
7 Pennsylvania.

8 MR. SOPIN: It's from the Commonwealth of
9 Pennsylvania, a license to operate a junkyard.

10 MR. DI GUGLIELMO: That's not a City of
11 Philadelphia license.

12 MS. GALLEGOS: That wasn't the question.
13 Please just answer the question that's in front
14 of you.

15 MR. DI GUGLIELMO: It says recycler
16 license in the State of Pennsylvania

17 MR. SOPIN: What is the address that's
18 contained on the license?

19 MR. DI GUGLIELMO: 4085-87 Richmond
20 Street.

21 MR. SOPIN: So that has 4085-4087, right?
22 That's one of those two addresses or both of
23 them you visited back on March 2nd, right?

24 MR. DI GUGLIELMO: You can't have it --

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1 it's under Robert Holton.

2 MR. SOPIN: Well, yeah.

3 MS. GALLEGOS: Next question.

4 MR. SOPIN: When you went back to the
5 property to post the cease on April 12th, was
6 that the last time you've been to the property?

7 MR. DI GUGLIELMO: No. I was there
8 yesterday.

9 MR. SOPIN: Yesterday, did you do that in
10 anticipation of today's hearing?

11 MR. DI GUGLIELMO: It should be under
12 cease order. The cease was never lifted, yes.

13 MR. SOPIN: Did you inspect? Did you go
14 in?

15 MR. DI GUGLIELMO: No, I did not.

16 MR. SOPIN: So what was the purpose of
17 going yesterday?

18 MR. DI GUGLIELMO: To see if it was still
19 operating.

20 MR. SOPIN: What was the relevance to you
21 then?

22 MR. DI GUGLIELMO: No one should be there.
23 It's still under cease order.

24 MR. SOPIN: You're not a police officer,

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1 right?

2 MR. DI GUGLIELMO: It's under cease order,
3 under L&I cease order. It should be under
4 cease order.

5 MR. SOPIN: You said you saw a scale there
6 on March 2nd, 2017?

7 MR. DI GUGLIELMO: Yes.

8 MR. SOPIN: Where was that located?

9 MR. DI GUGLIELMO: On the property. You
10 just saw the photo.

11 MR. SOPIN: Were you aware that any scale
12 was moved out within 35 days?

13 MR. DI GUGLIELMO: The property's under
14 cease order. It was still there.

15 MR. SOPIN: It's still there today?

16 MR. DI GUGLIELMO: I said it was still
17 there on the cease operation. The cease has
18 not been lifted. We didn't inspect the
19 interior.

20 MR. SOPIN: You don't know if there's a
21 scale there today?

22 MR. DI GUGLIELMO: Today, no. It's still
23 under cease operation.

24 MR. SOPIN: Can you look at your Exhibit

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1 4, again?

2 MR. DI GUGLIELMO: Which one's that?

3 MR. SOPIN: Can I find it in your pile
4 here?

5 MR. JOHNSON: We don't have it.

6 MS. GALLEGOS: Is it a photo?

7 MR. SOPIN: Yes. Actually, 4 and -- I'd
8 like to see both of those, 4 and 5 I think they
9 are.

10 MR. LEE: This one?

11 MR. SOPIN: Thank you very much. Let me
12 show you what's been marked as Exhibit 4. Will
13 you look at that? Is that a picture that you
14 took?

15 MR. DI GUGLIELMO: Yes.

16 MR. SOPIN: Is there a no smoking sign in
17 there?

18 MR. DI GUGLIELMO: Yes.

19 MR. SOPIN: You're not proceeding on a
20 nonsmoking issue today, right?

21 MR. DI GUGLIELMO: No. We said in the
22 beginning that several violations were
23 complied.

24 MR. SOPIN: That's not what I'm asking.

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1 You're not proceeding on that, correct?

2 MR. DI GUGLIELMO: No smoking, correct.

3 MR. SOPIN: How did you determine that
4 there are no smoking signs there now?

5 MR. DI GUGLIELMO: Inspection was done at
6 the time of the cease. I walked around with
7 the owner of the business.

8 MR. SOPIN: From the outside or inside?

9 MR. DI GUGLIELMO: Inside while we were
10 waiting for the police. Some violations were
11 corrected. I can read to you what's been
12 corrected.

13 MR. SOPIN: I know what you're proceeding
14 on today.

15 Look at Exhibit 5. No smoking as well,
16 right?

17 MR. DI GUGLIELMO: The no smoking sign is
18 not an issue.

19 MR. SOPIN: Was K-Squad -- the tenant was
20 on the property. Was K-Squad cited, as well?

21 MR. DI GUGLIELMO: Yes.

22 MR. SOPIN: Did they need a K-Squad
23 appeal?

24 MR. DI GUGLIELMO: By who?

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1 MR. SOPIN: When you posted the cease
2 order -- do you have the picture still here? I
3 think Exhibit 2.

4 When you posted the cease order on or
5 about April 12th, 2017, does it advise the
6 property owner to either cease operations or
7 obtain all the permits that are be being
8 requested?

9 MR. DI GUGLIELMO: Yes.

10 MR. SOPIN: It does do that, right?

11 MR. DI GUGLIELMO: Zoning is one of them.

12 MR. SOPIN: And your inspection though,
13 after the cease order, was yesterday, right?
14 Isn't that when it was?

15 MR. DI GUGLIELMO: Say it again.

16 MR. SOPIN: Your inspection was yesterday,
17 correct?

18 MR. DI GUGLIELMO: Just to see if they
19 were operating. I didn't enter inside. It
20 wasn't an inspection, official inspection. It
21 was just basically monitoring.

22 MR. SOPIN: It says something here -- I
23 can't really see from here -- but cease
24 operations were obtained, the permits, et

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1 cetera, whatever it says. Somebody would have
2 had to determine whether the permits were
3 obtained after that, right?

4 MR. DI GUGLIELMO: The owner usually calls
5 up if zoning is obtained or if permits were
6 obtained.

7 MR. SOPIN: There's no zoning listed in
8 the March 9th report?

9 MR. DI GUGLIELMO: It's the NOV. It's in
10 there, the letter he received.

11 MR. SOPIN: I'm not going to have anymore
12 questions after this one.

13 MR. DI GUGLIELMO: There it is.

14 MR. SOPIN: Take a look.

15 I have to object. The attorney just told
16 him to say he personally delivered this.

17 MR. JOHNSON: No, no. I'm going to ask
18 him a couple brief --

19 MS. GALLEGOS: You can ask on redirect.

20 MR. SOPIN: It's spoiled now. It was
21 already told.

22 MR. LEE: What was told?

23 MS. GALLEGOS: Just move forward.

24 MR. JOHNSON: Mr. Sopin doesn't know what

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1 I'm going to ask.

2 MS. GALLEGOS: Just move forward.

3 MR. SOPIN: I know the answer though. I
4 have no further questions for this witness. If
5 they rest, I'm going to call my client.

6 MS. GALLEGOS: Is there any redirect,
7 Counsel?

8 MR. JOHNSON: Yes. Briefly. You visited
9 the premises yesterday, as you had testified?

10 MR. DI GUGLIELMO: Yes.

11 MR. JOHNSON: Did you happen to see if the
12 cease order was still posted?

13 MR. DI GUGLIELMO: It was removed.

14 MR. JOHNSON: Is that a violation of the
15 City Code?

16 MR. DI GUGLIELMO: It is.

17 MR. JOHNSON: When you went back, were
18 they still operating the business?

19 MR. DI GUGLIELMO: The gate was open. I
20 took a photograph. There was a sign stating
21 batteries for sale.

22 MR. JOHNSON: Now, before you came to the
23 hearing today, did you happen to check -- did
24 they ever get proper zoning for an auto

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1 wrecking business?

2 MR. DI GUGLIELMO: Not for 4087.

3 MR. JOHNSON: And for 4087, did they apply
4 for or receive from the City any permits for
5 hazardous materials?

6 MR. DI GUGLIELMO: No license for
7 hazardous materials from 4087.

8 MR. JOHNSON: I have nothing further.

9 MR. SOPIN: Just a quick follow up.

10 Silvio, you said that the sign was
11 removed. What you mean was the sign wasn't
12 there, right?

13 MR. DI GUGLIELMO: It was removed. It
14 should not be removed.

15 MR. SOPIN: The sign was not there. You
16 didn't see anybody take it away, did you?

17 MR. DI GUGLIELMO: No.

18 MR. SOPIN: And if it was removed, you
19 don't know who did that, right?

20 MR. DI GUGLIELMO: No.

21 MR. SOPIN: Thank you. Nothing further.

22 MR. LEE: I do have a question. Are you
23 saying that they have a license to operate?

24 MR. DI GUGLIELMO: They do not.

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1 MR. LEE: They do not have a license --

2 MR. DI GUGLIELMO: No, not for 4087.

3 MR. LEE: -- from the City of
4 Philadelphia?

5 MR. DI GUGLIELMO: From the City of
6 Philadelphia, no.

7 MR. LEE: They don't have a license?

8 MR. DI GUGLIELMO: No.

9 MR. LEE: Is the state license that they
10 have -- is that something that they can operate
11 with?

12 MR. DI GUGLIELMO: Not for the City of
13 Philadelphia. I'm not sure. I'm not aware of
14 that.

15 MS. GALLEGOS: Is there any license or
16 permit associated with the other addresses
17 being discussed?

18 MR. DI GUGLIELMO: There is. For 4085,
19 there's other licenses for that address.

20 MR. LEE: Thank you.

21 MS. GALLEGOS: All right. Thank you,
22 Inspector. You may have a seat.

23 Mr. Sopin, if you want to put on your
24 witness.

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1 MR. SOPIN: Yes. The City rests, I take
2 it.

3 MR. JOHNSON: No. The City is going to
4 call another witness, Darin Gatti.

5 MS. GALLEGOS: I apologize.

6 Mr. Sopin, you had marked things into
7 evidence.

8 MR. SOPIN: Yeah. In my case, I'm going
9 to move them. I mean, I can move them now.

10 MS. GALLEGOS: No, no, at your
11 convenience. Sir, were you sworn?

12 MR. GATTI: Yes.

13 MR. JOHNSON: Mr. Gatti, can you please
14 spell your name for the record?

15 MR. GATTI: My name is Darin Gatti,
16 D-A-R-I-N, G-A-T-T-I.

17 MR. JOHNSON: Mr. Gatti, what is your
18 position, sir?

19 MR. GATTI: I'm the chief engineer and
20 president of the Board of Surveyors for the
21 Philadelphia Streets Department.

22 MR. JOHNSON: Are you familiar with the
23 property that's been identified as 4087
24 Richmond Street?

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1 MR. GATTI: Yes.

2 MR. JOHNSON: And how did you first become
3 aware of this property?

4 MR. SOPIN: I'm going to object at this
5 point and ask for an offer of proof. Why do we
6 need a surveyor involved with whether
7 violations occurred, and the nature that was
8 indicated at the beginning of the hearing?

9 Surveyor seems to be property lines, and
10 we're not here about that.

11 MR. JOHNSON: As an offer of proof,
12 Mr. Gatti is going to testify about the
13 property that's located at 4087 Richmond
14 Street, and the other property that is owned by
15 Mr. Holton at 4085 Richmond Street, that are
16 clearly identified on the map.

17 And to talk about activities that he has
18 personal knowledge of that are occurring in
19 both of those places, as well as a history
20 between the City and Mr. Holton.

21 MR. SOPIN: I'm going to object. History
22 between the City and Mr. Holton --

23 MS. GALLEGOS: History won't be relevant.

24 MR. SOPIN: And if he has any evidence of

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1 things that were occurring up until the
2 violations notice were sent, that wouldn't be
3 relevant.

4 MR. JOHNSON: The testimony is going to be
5 directly relevant to the issue of zoning, and
6 whether zoning could be obtained by the
7 defendant.

8 MR. SOPIN: I'm going to object to that.
9 We don't have anyone here from the Zoning Board
10 to say whether zoning could be obtained, and
11 that's not the issue here.

12 The issue is whether these violations
13 occurred. And zoning didn't even appear on the
14 March 9th report.

15 MS. GALLEGOS: So the zoning issue isn't
16 an issue that this board can hear. That has to
17 be presented before the ZBA, the remaining
18 three violations --

19 MR. JOHNSON: Whether there's proper
20 zoning is an issue that's directly related to
21 the case because it's in the violation notice
22 that's been appealed.

23 MS. GALLEGOS: We are unable to make the
24 determination as to whether or not zoning is

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1 proper or not in this instance. It's just not
2 within our jurisdiction.

3 One moment, please.

4 I'm sure you heard, but to put formally on
5 the record -- the question of whether or not a
6 zoning permit exists or does not exist, we can
7 hear testimony to the extent that there's a
8 dispute about that. Whether or not the
9 substance of that zoning and whether or not
10 it's appropriate or not, we cannot hear
11 substance about.

12 So is Counsel willing to stipulate about
13 the presence of a zoning permit or not, is that
14 in dispute or is it simply the substance of
15 what the appropriate zoning is at that
16 location?

17 MR. SOPIN: Well, I would stipulate that
18 there may not be a zoning permit. I'm not
19 stipulating that a zoning permit would be
20 required that it's appropriate when it wasn't
21 listed on the things --

22 MR. JOHNSON: It's listed on the violation
23 notice you appealed.

24 MR. LEE: It is listed.

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1 MR. SOPIN: That's because he didn't get
2 that violation notice. The City made me go
3 downstairs to the basement to get it in order
4 to perfect the appeal. He didn't get anything
5 on March 7th.

6 MR. JOHNSON: He got it. And then you
7 filed an appeal months ago. We're having a
8 hearing on the violations. He's clearly had
9 time to prepare or rectify any zoning
10 violations.

11 MS. GALLEGOS: So there is no zoning
12 permit on record, but there's argument as to
13 why that is the case; is that accurate?

14 MR. SOPIN: Yes. And the City testified
15 that it's not listed on this form and that
16 there was no notice sent on March 2nd.

17 MS. GALLEGOS: So it's a notice issue
18 pertaining to the zoning. We understand that.

19 So again, the relevance of the history
20 with this property, we're not going to hear
21 testimony on. As for the violations, we can
22 move forward.

23 MR. JOHNSON: Mr. Gatti, I'm going to ask
24 you a couple questions, just about the

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1 properties.

2 Have you been involved in looking at the
3 properties located at 4087 and 4085 Richmond
4 Street?

5 MR. GATTI: Yes, I have.

6 MR. JOHNSON: And you've heard today the
7 testimony about the activities that are
8 occurring at 4087 Richmond Street?

9 MR. GATTI: Yes.

10 MR. JOHNSON: And have you examined the
11 document that I marked Commonwealth Exhibit 1?

12 MR. GATTI: Which one is that?

13 MR. JOHNSON: That's the document I'm
14 showing you right now.

15 MR. GATTI: Yes.

16 MR. JOHNSON: Have you had a chance to
17 examine the deeds of the properties in the
18 area?

19 MR. SOPIN: I'm going to object. This is
20 not a property line surveyor type of case.
21 This is whether certain violations occurred at
22 the property, not the property lines.

23 MR. JOHNSON: Are you aware -- is there
24 zoning for an auto wrecking business at 4087

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1 Richmond Street?

2 MR. GATTI: I'm not a part of L&I zoning.
3 But 4078 there can't possibly be zoning --

4 MR. SOPIN: Objection. This is the same
5 objection I made before, during the offer of
6 proof.

7 MS. GALLEGOS: What's your next question,
8 Counsel?

9 MR. JOHNSON: Have you ever talked to
10 Mr. Holton about the activities occurring at
11 either of those properties?

12 MR. GATTI: Both of those properties.

13 MR. JOHNSON: And did you talk to him
14 about the property that's located at 4087
15 Richmond Street?

16 MR. GATTI: Yes.

17 MR. JOHNSON: And what was the substance
18 of the conversation that you had with him in
19 the past?

20 MR. GATTI: It was the discussion that the
21 business is operating on the Frankford Creek
22 Right of Way, which is City property.

23 MR. SOPIN: Objection. This goes to
24 property lines, and this is not an action to

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1 quiet title.

2 MR. JOHNSON: And how close is that
3 business to the Frankford Creek?

4 MR. SOPIN: Objection. Not relevant.

5 MR. GATTI: In the Frankford Creek.

6 MR. SOPIN: Objection.

7 MS. GALLEGOS: Do you have anything
8 pertaining to the property that is relevant?

9 MR. JOHNSON: I have a question about the
10 effects of the type of activity that occurs on
11 the Creek.

12 MR. SOPIN: Objection. This is not
13 environmental.

14 MR. JOHNSON: I think it's important
15 because it affects public safety and it's
16 hazardous to public health.

17 MR. SOPIN: We don't have a notice for
18 this. That's an environmental issue, DEA. And
19 we don't have any notice of that, that's not a
20 violation that's been listed.

21 MR. LEE: Could it go to the not having a
22 license for hazardous material?

23 MR. SOPIN: We have a license for
24 hazardous materials.

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1 MR. JOHNSON: The testimony that's sought
2 is relevant because it underpins the reason
3 that we have regulations on these activities.

4 MS. GALLEGOS: I think we under the
5 general policy behind the importance of
6 regulations about hazardous materials and fire
7 safety. And that sort of thing.

8 We're concerned about the notice that went
9 out, and whether there's been compliance or
10 not. The underlying legislative intent behind
11 it isn't going to be relevant to us today.

12 MR. JOHNSON: Then I have nothing further.

13 MR. SOPIN: No questions.

14 MR. PETTIT: Who owns 4087?

15 MR. SOPIN: My client says he does.

16 MR. PETTIT: Is there proof for that?

17 MR. SOPIN: Proof to the contrary right
18 now.

19 MR. LEE: So wait a minute. Let me just
20 follow up. Are you stating for the record that
21 your client owns 4087?

22 MR. SOPIN: I'm stating that my client
23 believes he owns 4087. If the City claims, as
24 they did in their opening, that it owns 4087,

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1 then it issued violation notices against
2 itself.

3 MR. JOHNSON: And just for the record,
4 there was a city ordinance that was passed back
5 in 1951 that set up the Frankford Creek Right
6 of Way. The ordinance itself describes the
7 property that is going to be taken as part of
8 the Right of Way.

9 That property reflects that section that
10 we're talking about, abutting Richmond Street,
11 that's been identified as 4087 Richmond Street.

12 MR. LEE: Understood. So you're saying
13 your client believes that he -- I just want to
14 be real clear. You're saying that your client
15 believes he owns 4087 Richmond Street?

16 MR. SOPIN: He purchased the property.

17 MR. LEE: Is that the statement?

18 MR. SOPIN: Yes.

19 MR. LEE: Okay.

20 MS. GALLEGOS: Thank you. Mr. Sopin are
21 you ready to move forward?

22 MR. SOPIN: Yes. Does the City rest now?

23 MR. LEE: Is it important for the City to
24 rest?

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1 MR. SOPIN: Before I present case in chief
2 I thought...

3 MS. GALLEGOS: Do you have any other
4 witnesses, Counsel?

5 MR. JOHNSON: No.

6 MS. GALLEGOS: Let's move forward then.

7 MR. SOPIN: I'll call Robert Holton.

8 Mr. Holton, do you have a hazardous
9 materials permit for this property?

10 MR. HOLTON: Yes.

11 MR. SOPIN: I'm going to show you what
12 I've already marked --

13 MS. GALLEGOS: Who issued it?

14 MR. HOLTON: The City of Philadelphia,
15 L&I.

16 MR. LEE: Did you let Counsel see that?

17 MR. JOHNSON: I saw it.

18 MR. SOPIN: I'm going show you what I'm
19 marking as A-6. Do you see that?

20 MR. HOLTON: Yes.

21 MR. SOPIN: When was that issued? What's
22 the effective date?

23 MR. HOLTON: 2017.

24 MR. SOPIN: Well, the actual date.

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1 MR. HOLTON: 3/28 was the new one that was
2 issued.

3 MR. SOPIN: Did you get any notices on
4 March 2nd or dated March 2nd, indicating that
5 there were violations, including a hazardous
6 materials permit violation?

7 MR. HOLTON: No, sir.

8 MR. SOPIN: And the address that's
9 contained on the notice -- the permit for the
10 hazardous materials is or are what?

11 MR. HOLTON: 4085 Richmond Street and 3950
12 North Delaware.

13 MS. GALLEGOS: What is your relationship
14 to those two addresses?

15 MR. HOLTON: They are the same. What it
16 is, is this property -- the address thing has
17 been messed up for a while, so everything that
18 they do -- I make sure that they put the
19 addresses on there so we don't have this
20 problem.

21 MS. GALLEGOS: So you own all three
22 addresses?

23 MR. HOLTON: Yes.

24 MS. GALLEGOS: I'm just saying all three

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1 for clarity -- so there's no dispute there.

2 MR. LEE: How did you obtain the hazardous
3 license? Was that a renewal?

4 MR. HOLTON: Yeah. I've had a hazardous
5 material license since I was 17.

6 MR. LEE: So you just went down -- or you
7 did it online? How did you do it?

8 MR. HOLTON: I went there the first time.
9 But then every year after that, you have to go
10 in and renew them again.

11 MR. LEE: So you went and did the renewal
12 part of the L&I --

13 MR. HOLTON: Yeah. Now they have this new
14 system with that eCLIPSE, so you can actually
15 renew them and don't have to go down there.

16 And actually, it was renewed. And the
17 date of the inspection mysteriously -- my
18 licenses were all canceled out on that date
19 from someone going into the system. They said
20 it was a glitch, and I have a copy of that.
21 That the date of the inspection, my licenses
22 were canceled that day. And I have a copy of
23 it.

24 Before I went down to fix, I made sure I

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1 printed all that out.

2 MR. LEE: You mean your hazardous license?

3 MR. HOLTON: Every license that was in my
4 name, was canceled out the date of the
5 inspection, 3/2.

6 MS. GALLEGOS: Do you have a document that
7 shows it was canceled on that date?

8 MR. HOLTON: Yes, on that date. They
9 don't time it. I guarantee you it was at the
10 time of the inspection.

11 MS. GALLEGOS: But it says canceled?

12 MR. HOLTON: Yeah. It says canceled 3/2,
13 all licenses were canceled.

14 Then I went down to the City about it,
15 because then I couldn't do anything through the
16 eCLIPSE System. I went there in person. They
17 told me that somebody had messed with the
18 system. And it was some kind of glitch in the
19 system. But how convenient that is was on the
20 date of the inspection?

21 MR. SOPIN: When does the hazardous
22 materials licenses expire, currently?

23 MR. HOLTON: 12/31/17.

24 MR. LEE: Wait a minute. You said that

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1 license is canceled, right?

2 MR. HOLTON: No. It was canceled on
3 3/2 --

4 MR. LEE: Of this year?

5 MR. HOLTON: Of this year. And I went
6 down to have it fixed in person, to see what
7 the problem was. And it was canceled on the
8 date of the inspection.

9 MR. LEE: So is it in effect now?

10 MR. HOLTON: Yeah, it's fixed now. But I
11 printed out everything showing that it was
12 canceled on that date, to show that there was
13 an issue. But -- then I also have the license
14 before this date, when it was renewed.

15 MR. LEE: All right.

16 MR. SOPIN: Mr. Holton, I'm going to show
17 you what I've marked as A-4. That's dated
18 March 9th of 2017, is that what you received?

19 MR. HOLTON: Yes.

20 MR. SOPIN: And how many pages is the
21 letter?

22 MR. HOLTON: Two pages.

23 MR. SOPIN: Who signed it or whose name
24 appears at the end?

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1 MR. HOLTON: James Titus.

2 MR. SOPIN: Does that notice anywhere
3 indicate -- there's a list of violations at the
4 end on to the second page, is there a violation
5 notice because of zoning?

6 MR. HOLTON: No. I've looked at this many
7 times.

8 MR. SOPIN: Do you believe there's a
9 zoning problem where you work?

10 MR. HOLTON: No.

11 MR. SOPIN: Why not?

12 MR. HOLTON: This property's all lease
13 restricted. You can go down to the City and
14 pull a license for anything, as long as there's
15 a license to be pulled for it. There's no
16 restrictions on this property.

17 I don't know if you are familiar with LR
18 property. It's mostly all old railroad
19 property. You don't have to have a zoning for
20 it. It's all lease restricted.

21 MR. SOPIN: At the beginning -- I don't
22 know if I heard any evidence about it, and I
23 want to cover it.

24 At the beginning in the City's opening,

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1 you indicated one of the items they were moving
2 forward on today is a problem with extension
3 cord violations. Do you have extension cords
4 at the property?

5 MR. HOLTON: No.

6 MR. SOPIN: Did you have extension cords
7 at the time of the original inspection on March
8 2nd?

9 MR. HOLTON: No.

10 MR. SOPIN: Like I said, we didn't hear
11 any evidence about it. Do you know what the
12 City is talking about, when they say there's a
13 violation related to extension cords on the
14 property?

15 MR. HOLTON: One time, about two years
16 ago, I did have an inspection. Our trucks are
17 diesel trucks. We plug them in the wintertime.
18 I'm sure people are familiar with that in the
19 City, you have to plug the trash trucks in or
20 it won't start in the winter.

21 So I had them plugged in. This was three
22 years ago. I don't think this is what's on
23 this violation. They said you're not allowed
24 to have an extension cord. So...

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1 MR. SOPIN: Did you get rid of it?

2 MR. HOLTON: Yes. It's temporary because
3 it's wintertime. You don't have to have them
4 plugged in, in the summertime.

5 MR. SOPIN: The other two -- I'm
6 classifying the one talking about labeling
7 violations for hazardous materials, cans we saw
8 in the photographs that weren't labeled, is
9 that still a problem?

10 MR. HOLTON: No. These containers that
11 are in the picture are empty containers that we
12 get to put the waste oil and that stuff in
13 there. It wasn't labeled yet because there was
14 nothing in them.

15 They told us we have to label them, even
16 if they are empty, as empty. Well when you get
17 them, they're empty. When you put the stuff in
18 there, whatever goes in there is what they get
19 labeled. These weren't used containers that
20 had anything in them at the time.

21 MR. SOPIN: Are you properly complying
22 with the City's request concerning labeling?

23 MR. HOLTON: Yes.

24 MR. SOPIN: Did you comply with that

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1 request? Did it happen within 35 days of March
2 2nd, 2017?

3 MR. HOLTON: The containers that were
4 labeled, ain't in those pictures. The
5 containers were labeled at that time, just like
6 most of these violations on here were all stuff
7 that was there and current.

8 I even have a letter from my fire
9 extinguisher company. They do inspections just
10 like the City does every year. When they come,
11 they check the fire extinguishers, label them,
12 do the no smoking signs. All this was there
13 then, is there now, and has always been in
14 compliance.

15 MR. SOPIN: Would you be amenable -- would
16 you be agreeable for the City to come out and
17 conduct another inspection now?

18 MR. HOLTON: Yes.

19 MR. SOPIN: I have nothing further.

20 MR. PETTIT: Do you have the EMSDs on
21 site?

22 MR. HOLTON: They were shown at the time.
23 Along with a lot of this other stuff that was
24 here. And they were just like -- when they

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1 show up for the inspection, there's about 50 to
2 60 people that come, just so you know.

3 Then they scramble everywhere. And I try
4 to walk with them, I've had hundreds of these
5 inspections, just like James Titus, the
6 supervisor, I've known James for 20 years, and
7 have had him do the inspections.

8 And it's just -- him and Silvio, nice
9 guys. They're just kind of put into this.
10 They are not even from this district --

11 MS. GALLEGOS: It's okay.

12 MR. LEE: Go ahead, Counsel.

13 MR. JOHNSON: I'm going to ask you a
14 little bit about the document you were talking
15 about, A-6. It indicates that it is a
16 department of L&I license for hazardous
17 materials. And that's for Final Destination
18 Incorporated, correct?

19 MR. HOLTON: Correct.

20 MR. JOHNSON: You had said before in your
21 testimony that you own the property at 4087 and
22 4085 Richmond Street, that's correct?

23 MR. HOLTON: Yes.

24 MR. JOHNSON: So isn't it true that the

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1 license that we're looking at, indicates 4085
2 Richmond Street and 3950 Delaware Avenue,
3 correct?

4 MR. HOLTON: Correct.

5 MR. JOHNSON: Between those three
6 addresses, do you use, for your business
7 purposes, all of those addresses,
8 interchangeably?

9 MR. HOLTON: Do I use --

10 MR. JOHNSON: You use all three of those
11 addresses interchangeably, correct?

12 MR. HOLTON: Yes.

13 MR. JOHNSON: Now, do you have or have you
14 filed a deed for 4087 Richmond Street?

15 MR. HOLTON: It's all the same deed.

16 MR. JOHNSON: So the deed for the property
17 at 4085 Richmond Street would identify it as
18 abutting Richmond Avenue?

19 MR. SOPIN: Well, I'm going to object.
20 Now we're beyond the scope of the direct.

21 MR. JOHNSON: He's been talking about
22 owning the property.

23 MR. SOPIN: But we weren't talking about
24 property lines here. We're talking about

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1 violations. He's trying to get into the same
2 issue.

3 MR. JOHNSON: Well, I'm drawing attention
4 to the fact that the license that we're talking
5 about is for 4085 Richmond Street, not for 4087
6 Richmond Street.

7 MR. SOPIN: I already indicated through
8 their own witness that the notice from the City
9 says 4087 Richmond Street AKA 3950 Delaware
10 Avenue.

11 MS. GALLEGOS: So it's clear that there's
12 confusion about the addresses. And depending
13 on what notice gets sent out from the City,
14 different addresses appear on them.

15 There's testimony from Mr. Holton that he
16 owns all three addresses, as far as he
17 understands it. Does that summarize where
18 everyone is at?

19 MR. LEE: One of my concerns is A. Do you
20 have permits to have trailers on your property?

21 MR. HOLTON: The trailer -- the one they
22 showed the picture of, is an original trailer
23 that's been there since when I purchased the
24 property.

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1 But you don't have to have a permit for a
2 trailer, unless if it's stationary. They're
3 portable, they're on wheels.

4 MR. LEE: So you're saying that there's no
5 need for a permit for trailers once --

6 MR. HOLTON: The only stuff you have to
7 have permits for is if something's stationary.
8 If you put something that's stationary, just
9 like they showed the lighting.

10 The lighting -- I don't know if you have a
11 backyard where you hang the lights that kind of
12 drape across, that's what they are. They are
13 not stationary. They are not permanent. They
14 are temporary. So they are hanging.

15 MR. LEE: You're saying the two mobile
16 units on there since you have purchased? It
17 how long have you had it?

18 MR. HOLTON: I've been on the property
19 since I was 16. So 20 --

20 MR. LEE: How long have you owned it?

21 MR. HOLTON: I bought it in the late 90's.

22 MR. LEE: So the trailers have been there
23 since the late 90's. So would you consider
24 that being permanent?

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1 MR. HOLTON: Well, they are not in the
2 same location, the trailers. They're not --
3 no. And not the trailers, a trailer.

4 The other trailer that they showed the
5 picture of, that's actually like a tag along
6 trailer. And it's a friend of mine who's there
7 sometimes. But it's not --

8 MR. LEE: And you said earlier that you
9 have zoning for -- you have a zoning use for
10 that property?

11 MR. HOLTON: Yes.

12 MR. LEE: From the City of Philadelphia?

13 MR. HOLTON: Yes.

14 MR. LEE: Where's it at?

15 MR. HOLTON: I have all the licenses and
16 the zoning. And the property is lease
17 restricted. That is the zoning of the
18 property. It's lease restricted.

19 MR. PETTIT: The picture of the seabox,
20 that's permanent.

21 MR. HOLTON: What is it?

22 MR. LEE: The picture of the seabox.

23 MR. HOLTON: The overseas container?
24 That's there.

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1 MR. LEE: Let me just drill down. And be
2 real clear about your answer. Do you have a
3 zoning permit?

4 MR. HOLTON: Yes.

5 MR. LEE: Where is it?

6 MR. SOPIN: He's asking if you have an
7 actual paper from the Zoning Department saying
8 it's --

9 MS. GALLEGOS: Or anything in writing that
10 says you have a zoning permit.

11 MR. LEE: Anything in writing that says
12 you have a zoning permit.

13 MR. HOLTON: I'm not sure. But --

14 MR. LEE: No, no. That's a good enough
15 answer.

16 MS. GALLEGOS: What's the next question?

17 MR. JOHNSON: I'm going to ask to recall
18 Darin Gatti to testify about -- to rebut his
19 testimony about the addresses.

20 MS. GALLEGOS: What are we trying to get
21 at? Again, our understanding is that there is
22 very clearly confusion on everybody's part
23 about which notices go to which address.

24 Mr. Holton is testifying that he owns all

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1 three properties. You've cited him, as such.
2 There are violations we understand what those
3 are. We understand what the rebuttal testimony
4 is that maybe there aren't any violations
5 currently or there weren't at that time.
6 That's up to us to decide --

7 MR. JOHNSON: He doesn't have proper
8 zoning to operate that business that's
9 located --

10 MS. GALLEGOS: We just asked him for
11 anything in writing and he said no. Further
12 questions?

13 MR. SOPIN: I have none.

14 MR. JOHNSON: I have none.

15 MR. SOPIN: He was our only witness.

16 MS. GALLEGOS: If you just want to move
17 into evidence. I think we --

18 MR. JOHNSON: I'm going to object to the
19 one from the state because it's not material.

20 MS. GALLEGOS: Noted. We understand that
21 it's from the state and there was testimony
22 about whether or not that had been...

23 MS. GALLEGOS: Brief closings or? Up to
24 Counsel.

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1 MR. LEE: A minute.

2 MR. SOPIN: Notices supposedly dated March
3 2nd. They aren't dated March 2nd. I gave one
4 example up there. The City's witness says
5 there is no notice dated March 2nd. The second
6 notice is dated March 9th.

7 I gave you the notice dated March 9th.
8 There is no zoning violations listed on the
9 notice. I forget what exhibit number it is.

10 He said he came back for reinspection.
11 The City's witness couldn't tell us when he
12 came back for reinspection.

13 The zoning -- the violations notices that
14 weren't received, dated March 2nd, even they
15 say you have 35 days to cure. They didn't come
16 back and look at these other things. Even the
17 cease order itself says it's a cease until the
18 time you cure, and there obviously was a lack
19 of reinspections in this case.

20 Mr. Holton testified that even when they
21 did inspect back on March 2nd, that there were
22 things in place that he was violated for any
23 way.

24 In any event, everything since March 2nd

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1 has been complied with. Based on that, I would
2 ask that the appeal be sustained.

3 MR. JOHNSON: This appeal should be City
4 affirmed because he still doesn't have proper
5 zoning to operate that auto wrecking business
6 at 4087 Richmond Street. It poses danger to
7 the public. And it's not being conducted with
8 a safe manner, as evidence by testimony of
9 Mr. Di Guglielmo.

10 And at this point, the arguments about
11 notice have been cured by the fact that he has
12 filed this appeal and this hearing de novo.

13 He clearly got a notice of the violations
14 months and months ago, and had an opportunity
15 to get the proper zoning, which he hasn't done.

16 MS. GALLEGOS: I think we're going to take
17 a moment in the back, we'll be back in 2
18 minutes and we'll vote.

19 - - - - -

20 Whereupon a brief recess was taken.

21 - - - - -

22 MS. GALLEGOS: Okay. Thank you, Counsel,
23 for your patience here. We'll poll the board.

24 MR. LEE: City affirm.

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1 MR. DONATUCCI: City affirm.

2 MR. PETTIT: City affirm.

3 MS. GALLEGOS: City affirm.

4 So the board has decided to affirm the
5 City in this instance. I'm sure Counsel is
6 aware what your appellant rights are at this
7 point, but that's all we have for you today.

8 MR. SOPIN: I just want to clarify, is
9 that also including violation notices the City
10 did not proceed on today? They are affirmed as
11 well?

12 MS. GALLEGOS: I would say what is in the
13 appeal notice.

14 MR. SOPIN: They were proceeding on
15 everything until today.

16 MS. GALLEGOS: We're bound by the notice
17 that was appealed. To the extent that there
18 was discussion on the record about what they
19 were proceeding under, I would simply say
20 that's noted in the record for any appellate
21 purposes.

22 MR. SOPIN: Okay.

23 MR. JOHNSON: If he got other violation
24 notices, the question remains why he didn't

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1 appeal those.

2 MR. SOPIN: No. we did appeal those, the
3 City only proceeded on some of them.

4 MS. GALLEGOS: That's why I clarified that
5 on the record. That's all I can say.

6 MR. SOPIN: Thank you very much.

7 MR. JOHNSON: Thank you.

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C E R T I F I C A T I O N

I, hereby certify that the
proceedings and evidence noted are
contained fully and accurately in the
stenographic notes taken by me in the
foregoing matter, and that this is a
correct transcript of the same.

Kathryn Doyle
Court Reporter - Notary Public

(The foregoing certification of
this transcript does not apply to any
reproduction of the same by any means,
unless under the direct control/or
supervision of the certifying reporter.)

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